

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

HARDES HOLDING, LLC,

Appellant,

vs.

SANDTON CREDIT SOLUTIONS MASTER
FUND, III, LP,

Appellee.

3:19-CV-3009-RAL

**ORDER DIRECTING TRUSTEE TO JOIN
OR OBJECT TO APPEAL**

Sandton Credit Solutions Master Fund, III, LP (Sandton) moved to dismiss an appeal from a Bankruptcy Court order filed in the name of Hardes Holding, LLC, by counsel representing Hardes Holding, LLC, and a related entity Hardes Partnership prior to appointment of a trustee for Hardes Holding, LLC. Sandton argues that there is a lack of standing to appeal because the appeal was not brought by the appointed trustee. Doc. 4. The Tenth Circuit case of In re C.W. Mining Co., 636 F.3d 1257 (10th Cir. 2011) appears to be the seminal case. Of course, Hardes Holding, LLC “can act only through its authorized agents.” Id. at 1261. “[T]he Bankruptcy Code vests the right to litigate on behalf of the estate in the trustee and includes an estate’s legal claims as part of the estate’s property.” Id. at 1262 (citations omitted). However, the Appellant’s argument is that C.W. Mining is distinguishable because the question in C.W. Mining “was whether the Managers could bring C.W.’s appeal over the Chapter 7 trustee’s objection.” Id. at 1259 (emphasis added); See Doc. 6 at p. 7. The bankruptcy trustee has neither joined nor objected to the pending appeal. Therefore, it is hereby

ORDERED that the Bankruptcy Court appointed trustee for Hardes Holding, LLC—
Forrest C. Allred, 14 2nd Avenue SE, Suite 200, Aberdeen, SD 57401,
forrest.allred@gmail.com— notify this Court within 14 days whether the trustee joins in or
objects to the pending appeal. This Court's clerk of court is directed to email and mail a copy of
this order to the trustee at the address listed above. It is further

ORDERED that the Clerk of the U.S. Bankruptcy Court listed as the Interested Party
provide immediate notice of the order to the trustee and any attorney for the trustee.

DATED this 11th day of October, 2019.

BY THE COURT:


ROBERTO A. LANGE
UNITED STATES DISTRICT JUDGE